

APPROVED MINUTES  
CITY OF MILPITAS

Minutes:	Regular Meeting of Milpitas City Council (Including Joint Meeting with Redevelopment Agency)
Date of Meeting:	May 20, 2003
Time of Meeting:	6:30 p.m. (Closed Session) 7:30 p.m. (Regular Session)
Place of Meeting:	City Hall Council Chambers, 455 E. Calaveras Blvd.

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**ROLL CALL**

Mayor Esteves called to order the regular meeting of the Milpitas City Council at 6:30 p.m. Present were Mayor Esteves, Vice Mayor Dixon, and Councilmembers Gomez, Livengood (arrived at 6:40 p.m.), and Polanski.

**CLOSED SESSION**

Mayor Esteves publicly stated the Council would convene in Closed Session to discuss the total of four items listed on the agenda, including the one item on the Supplemental agenda:

**1. CONFERENCE WITH REAL PROPERTY NEGOTIATOR**

(Pursuant to Government Code Section 54956.8)

Property: APN Nos. 86-05-009, 86-10-025, and 86-11-013

Negotiating Party: Thomas J. Wilson

Under Negotiation: Price and Terms of Payment

**2. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**

(Pursuant to Government Code Section 54956.9[a])

Titles: Rhodes and Kesling, Inc. v. City of Milpitas

Casey-Fogli Concrete Contractors, Inc. v. Rhodes and Kesling, Inc.

City of Milpitas, et al.

Santa Clara County Superior Court Case No. 804145

**3. CONFERENCE WITH LABOR NEGOTIATOR**

(Pursuant to Government Code Section 54957.6)

Agency Negotiator: Cherie Rosenquist

Employee Organizations: IAFF Local 1699, LIUNA, MEA, MPOA, MSA, ProTech, and Unrepresented

**4. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**

(Pursuant to Government Code Section 54956.9[b])

One Potential Case

Mayor Esteves adjourned the meeting to closed session at 6:31 p.m.

The City Council meeting reconvened at 7:30 p.m. with Mayor Esteves presiding and Vice Mayor Dixon and Councilmembers Gomez, Livengood, and Polanski present.

**CLOSED SESSION  
ANNOUNCEMENTS**

Mayor Esteves reported that the City Attorney would make an announcement. City Attorney Steve Mattas announced that on a vote of five to zero, the Council authorized staff to join the City of San Jose in initiating litigation against the Regional Water Quality Control Board regarding the issuance of the storm water permit for all cities within Santa Clara County.

**PLEDGE**

Mayor Esteves led the Council and audience in the Pledge of Allegiance.

**MINUTES**

MOTION to approve the City Council minutes of May 6, 2003, including joint meeting with the Redevelopment Agency, as submitted.

M/S: Dixon, Polanski.

Ayes: 5

## SCHEDULE

Vice Mayor Dixon said she would be attending a meeting of the Santa Clara County Library Joint Powers Authority on May 22, 2003, at 1:30 p.m.

MOTION to approve the Schedule of Meetings as amended.

M/S: Dixon, Polanski.

Ayes: 5

## PRESENTATIONS

Mayor Esteves read a proclamation declaring May 26, 2003, as the day Milpitas will celebrate Memorial Day 2003 and gave the proclamation to the City Clerk. The City Clerk noted the proclamation would be on display at City Hall.

Mayor Esteves presented Commendations to the following individuals recognizing their artistic contributions to the Senior Showcase exhibit, May 18 through June 2, 2003, at the Community Museum:

Otto Herman	Jim Brown	Dan Steger
Carl Roach	Antonia Aguilar	Betty Smith
Ling Chen	Pat Drop	Irene Sebastian
Mickey Carter	Lupe Gonzalez	Mary Meacham
Ann Tinkler	Alice Woodrow	Neola Swanson
Roseann Constabile		

## CITIZENS FORUM

Mayor Esteves invited members of the audience to address the Council on any subject not on the agenda, requesting that remarks, including any visual or technology-assisted presentations of any kind, be limited to two minutes or less, and noted that the City Clerk would be using the timer and when the red light at the podium came on, two minutes would be up.

Art Swanson, Milpitas, presented a petition from his neighborhood requesting an ordinance requiring dog owners to keep their gates latched. That Mayor asked Mr. Swanson to give the petition to the Clerk.

Jenifer Lind, Milpitas, thanked the Council for its support of the 2003 Merchant-Sponsored Scholarship Program for graduating seniors at Milpitas High School and left the list of 32 scholarship recipients for 2003.

Ed Cacao, President, Fil-Am Association, invited the Council to attend the Fiesta at the Community Center on June 7, beginning at 2:00 p.m.

Bal Daquigan, on behalf of the Fil-Am Association, expressed appreciation to the Council for the grant received this year and thanked City staff for their assistance and guidance through the process.

Rob Means expressed his disappointment that the Federal Government no longer reflects the will of the U.S. people and about the United States not signing the Land Mine Treaty.

Sam Robinson thanked the Council and taxpayers for letting the Mayor attend the State Dinner in Washington, D.C., which he felt was an honor for the City.

## ANNOUNCEMENTS

Councilmember Polanski reported the May 10 groundbreaking for the new Dog Park was well attended and thanked the residents who came and brought their dogs; the City's 50<sup>th</sup> Birthday Committee would be reporting back to the Council in June, was sponsoring a logo contest, encouraged everyone to participate, and information on the contest was available on the City's web site, at the Community Center, and at the Library. Councilmember Polanski clarified that the logo would be used for the birthday celebration and was not intended to replace the City's Minuteman logo.

Vice Mayor Dixon reported that on May 15, 2003, she attended the Special Meeting of the League of California Cities in Sacramento, 238 of 410 cities were represented at the meeting,

and a resolution was adopted that will be going to the Governor to tell the Governor to leave cities' money alone, and she thought the resolution would do some good. Vice Mayor Dixon further reported that while in Sacramento, she talked with Milpitas representatives about Redevelopment.

Mayor Esteves said he was just back from Washington, D.C., and felt very privileged and proud to be there. Mayor Esteves further stated that he would be providing a more detailed report later but felt he had accomplished a lot and visited several legislators' offices, including Senator Boxer and Senator Feinstein, to talk about various transportation issues such as the BART project and to drop off a letter, and he also visited Congressman Honda's office with the same letter. Mayor Esteves commented that he was fortunate at the State Dinner to be at the same table with Congresswoman Pelosi and discussed the BART project; and met with the office of Elaine Chao of the Department of Labor to discuss labor issues and met several other dignitaries. The Mayor said he was proud to mention the City of Milpitas, was very grateful to the Filipino-American Community and many responsible citizens for sponsoring the trip, and thanked Vice Mayor Dixon and Councilmember Polanski for their support of the Filipino-American Community and the development of the BART project.

Vice Mayor Dixon said she thought this was a great honor for the entire community noting that this was only the third State Dinner to be held since President Bush took office, only 130 attended the event, and she was very pleased and proud this morning to see the Mayor's picture on the front section of the San Jose Mercury News.

#### **AGENDA**

MOTION to approve the agenda as submitted.

M/S: Dixon, Gomez.

Ayes: 5

Mayor Esteves asked for a show of hands from the audience of anyone wishing to speak on the flag issue. There was none.

#### **CONSENT CALENDAR**

Mayor Esteves inquired if anyone wished to make any changes to the Consent Calendar. There were no requests.

MOTION to approve the Consent Calendar, items with asterisks on the agenda, as submitted in accordance with the staff recommendations.

M/S: Dixon, Polanski.

Ayes: 5

\*5.  
CAC Work Plan

Amended the 2003 Community Advisory Commission Work Plan to include researching potential excessive rental activities in single-family homes.

\*6.  
Selwyn Park

1. Established new Capital Project No. CP 5078 Selwyn Park improvements with a total budget in 2002-03 of \$117,778 plus \$72,222 from CDBG in 2003-04.
2. Transfer prior year CDBG funding to Selwyn Park.
3. Appropriate \$17,778 from unallocated Parks funds to the Selwyn Park project.

\*7.  
Youth Sports Grants

Approved two Group Youth Assistance grants for PAL Soccer and Milpitas Youth Soccer Club in the amount of \$1,000 each as recommended by the Parks, Recreation and Cultural Resources Commission leaving a balance of \$4,670.00 for the remainder of the fiscal year.

\*10.  
Bargaining Representative

Adopted Resolution No. 7304 to recognize LIUNA as the exclusive bargaining representative for the Confidential and Mid-Management Unit.

\*11.  
LLMD No. 95-1  
McCarthy Ranch

Adopted Resolution No. 7305 directing the preparation of the Annual Engineer's Report.

\*12.

Adopted Resolution No. 7306 directing the preparation of the Annual Engineer's Report.

LLMD No. 98-1  
Sinclair Horizon

- \*13. CDBG Disaster Relief Funding      Approved Resolution No. 7307 authorizing City Manager to act on City's behalf in all matters pertaining to the grant application.
- \*14. Playground Upgrades  
(Project No. 5077)      1. Approved plans and specifications.  
2. Authorized advertising for construction bid proposals.
- \*15. Senior Center Modular  
(Project No. 8151)      1. Approved plans and specifications.  
2. Authorized advertising for bid proposals.
- \*16. Streetscape Plan  
Main Street      1. Established a new Capital Project titled "Main Street Precise Plan and Streetscape Study" with a total budget of \$376,400 from the RDA Tax Increment Fund.  
2. Appropriated \$376,400 from the unallocated RDA Funds to the Main Street precise Plan and Streetscape Project and approve the budget change form. The required funding is currently available from the RDA.  
3. Authorized the City Manager to execute a contract with Nolte & Associates, in an amount of \$327,260.00, to perform the necessary engineering studies, precise plan, and detailed streetscape plan for the entire length of Main Street.
- \*17. Calaveras/Piedmont-Evans  
(Project No. 4208)      Awarded the contract for Calaveras/Piedmont-Evans Intersection improvements (Project No. 4208) to O'Grady Paving in the amount of \$360,655.
- \*18. Miscellaneous Vendors      Approved the following purchase requests:
1. \$65,000.00 to Cayenta, Inc. for annual software maintenance and support of the City's finance and personnel computer systems for the Information Services Department. (Funds are available from the Information Services Department operating budget for this service.)
  2. \$45,000.00 to Oracle Corp for annual software license renewal and technical support for the citywide usage of the Oracle software packages for the Information Services Department. (Funds are available from the Information Services Department operating budget for this service.)
  3. \$27,639.00 to Tiburon, Inc. for renewal of software support and annual maintenance to support the police records management system for the Information Services Department. (Funds are available from the Information Services Department operating budget for this service.)
  4. \$11,600.00 to Beck's Shoes for 75 pairs of firefighter safety work boots for the Fire Department. Beck's Shoes submitted the lowest quote. (Funds are available from the Fire Department operating budget for this purchase.)
- \*19. Payroll Registers      Approved the Payroll Registers for the period ending April 19, 2003, in the amount of \$1,565,779.31, and May 3, 2003, in the amount of \$1,551,869.10.

## **PUBLIC HEARINGS**

1. Storm Drain Connection Fees      Principal Civil Engineer Darryl Wong reported that this item was continued from the May 6, 2003, Council meeting for further consideration; staff was requesting the public hearing on storm drain connection fees be closed and staff directed to re-notice the public hearing for a future Council meeting.
- Mayor Esteves invited public comments. There were none.
- MOTION to close the public hearing.

M/S: Dixon, Polanski.

Ayes: 5

MOTION to direct staff to re-notice the public hearing for a future Council meeting.

M/S: Dixon, Livengood.

Ayes: 5

## **JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING**

### **RA1. CALL TO ORDER**

Mayor Esteves called to order the regular meeting of the Milpitas Redevelopment Agency, meeting jointly with the City Council, at 8:04 p.m.

### **RA2. ROLL CALL**

Present were Mayor Esteves, Vice Mayor Dixon, and Agency/Councilmembers Gomez, Livengood, and Polanski.

### **RA3. MINUTES**

MOTION to approve the Redevelopment Agency minutes of May 6, 2003, including joint meeting with the City Council, as submitted.

M/S: Dixon, Livengood.

Ayes: 5

### **RA4. AGENDA**

MOTION to approve the agenda and consent calendar as submitted.

M/S: Gomez, Livengood.

Ayes: 5

### **RA5. JOINT PUBLIC HEARING 8<sup>TH</sup> AMENDMENT TO PLAN**

Mayor Esteves reported this item was a joint hearing of the Redevelopment Agency and the City Council to consider and act upon the proposed Eighth Amendment to the Redevelopment Plan for the Redevelopment Project Area No. 1; the State Law under which the Agency/Council were acting was the Community Redevelopment Law and required certain procedures to be followed in the conduct of the joint public hearing; and prior to opening the Joint Public Hearing, the Agency would consider a resolution to make non-substantive changes to the legal description for the added area boundary.

Assistant City Manager Blair King reported that prior to the opening of the public hearing, staff recommended that the Agency adopt a resolution to make technical and non-substantive changes to the legal description for the added area; five parcels totaling 1.5 acres were affected; portions of these parcels were inadvertently included in the original legal description/map; when the map was prepared, certain street center-lines and older lines of record were followed which resulted in dividing assessor's parcels; at the request of the assessor's office, these errors will be corrected by deleting these five parcels; and recommended that the Agency adopt the Resolution Amending the Legal Description.

MOTION to adopt Agency Resolution No. RA200 approving the amendment to the legal description for the Added Area for the Milpitas Redevelopment Project No. 1.

M/S: Dixon, Polanski.

Ayes: 5

Mayor Esteves opened the joint public hearing and invited comments noting that comments from the public were limited to two minutes or less and the public may comment on both the Plan Amendment and or the EIR. Mayor Esteves explained the order of procedure and then asked the City Manager to proceed with the receipt of evidence and testimony. City Manager Thomas Wilson said the Assistant City Manager would present the staff report and introduce the team of expert consultants who have assisted in the preparation of the Eighth Amendment.

Assistant City Manager King reported this was an important and complicated amendment; the City had secured the services of some of the best experts in the State; the consultants were present as resources; however, the purpose of the public hearing was to receive comments and testimony; staff was not intending to respond to questions at this meeting other than to clarify information presented and to answer questions from the Council/Agency. Mr. King introduced consultants who assisted with the amendment who were present in the audience:

Paul Anderson and Charles Kovac with Keyser Marston; Don Fraser with Fraser & Associates, Ernie Glove, with GRC, and David Beatty and Ethan Walsh, special legal counsel.

Mr. King reported the notice of the joint public hearing was published once a week for five successive weeks in the Milpitas Post; notice of the hearing, together with a statement concerning acquisition of property by the Agency for non-residential properties in the Added Area, was mailed by first class mail to each assessee of record in the Existing Project Area and Added Area as shown on the last equalized tax roll; the same notice was also mailed by first class mail to businesses and residences in the Existing Project Area and Added Area; the notice of the joint public hearing was mailed by certified mail, return receipt requested, to each of the governing bodies of each taxing agency in the Existing Project Area and Added Area; and the certificates of these mailing and publications were entered into the record as Exhibits 1 through 3.

Mr. King, using a power-point presentation presented introductory background comments about the history of the Existing Project Area and redevelopment process provided in the law, and reported the proposed Eighth Amendment would add approximately 691 acres of the Midtown Area to the Existing Project Area; increase the tax increment limit in the Existing Project Area from \$502 million to \$2.4 billion for the Existing Project Area and the Added Area; increase the bond debt limit for the Existing Project Area and Added Area from \$75 million to \$498 million; limit the Agency's authority to use eminent domain within the Added Area to commercial property; and revise and update various text provisions to conform to the requirements of State law. Mr. King explained that the amendment would not raise taxes and would not change land use. Mr. King also explained the reasons for requesting the extension of the life of the Agency were to complete the partially constructed public works projects within the existing project area, to complete the mitigation measures for previously approved projects, and to construct infrastructure needed to facilitate development of remaining and underutilized and vacant sites. Mr. King reviewed proposed projects in the new area that included implementation of the Midtown Specific Plan, an economic stimulation plan, streetscape, parks and public benefit projects, transportation improvements, utilities, and affordable housing. Mr. King explained that it may be necessary to exercise eminent domain authority to implement redevelopment activities; prior to any contemplated acquisition, there would be a separate hearing on the action and there would be adequate compensation and relocation of businesses as required by law and in accordance with the relocation provisions of the law which were described in the Report to City Council before the Council. Mr. King reported the Amended and Restated Redevelopment Plan, the Rules Governing Participation by Property Owners, and the Extension of Reasonable Preferences to Business Occupants, and the Report to City Council were included in the record as exhibits.

Paul Anderson, Keyser Martin, reported the documents before the Council were a compilation of the required documents and actions that had been prepared or taken in the amendment process; the report included the financial feasibility analysis and the documentation of the existing conditions, also referred to as the "blighting conditions"; the information was the same information that was included in the previously adopted preliminary report which was approved by the Agency and transmitted to the taxing agencies; the documents included the required information to support the Agency/Council's action in adoption of the Eighth Amendment; the report also included the Planning Commission's report and recommendations determining that the proposed amendment was consistent with the MidTown Specific Plan and the General Plan; also included was the EIR for the proposed amendment, which did not identify any environmental impacts that could not be mitigated with the implementation of the Eighth Amendment. Mr. Anderson further stated that the report to the Council included a planned method of relocation that required the Agency to provide relocation benefits to any business or resident displaced as a result of Agency's action, even if voluntary; these assurances as well as proposed time and financial limits were also incorporated in the amendment and restated Redevelopment Plan which described the Agency's authorities and responsibilities in implementing the Redevelopment Plan; and the report included a summary of consultations with the community which included a community information meeting held on March 31, 2003, and a summary of consultations with the affected taxing agencies; and the

agencies had on-going discussions with the County and Milpitas Unified School District and the County Office of Education; there were no objections to the Eighth Amendment received by the taxing agencies.

Mr. King stated that one of the requirements was that the financial projection and feasibility be prepared for the Council/Agency, which was prepared by Don Frazer.

Don Frazer, Fraser & Associates, stated one of the findings that had to be made was that the Plan continued to be financially feasible and parts 5, 6, and 7 of the report addressed those issues; he worked with staff to identify the projects and programs the Council/Agency wished completed in both the existing and added areas along with the costs of those projects and programs; long-term financial projects were run (tax increment projections) based on both completing development within the existing area and also the kind of development the Council/Agency wanted to see under its Specific Plan; costs were compared to revenues to ensure that the Plan was feasible; without an amendment, there would be no additional revenue for the existing area; and tax increments and bond limits were done through standard methodology, which looked at the costs to complete the programs of redevelopment and factoring in contingencies, escalations, cost of money, etc., to arrive at what the new limits would be.

Ernie Glover, who prepared the EIR, stated there were no unavoidable, significant adverse impacts identified, and no mitigation measures were required as part of the implementation of the project; any implementation measures were contained in the EIR for the MidTown Specific Plan; the draft EIR was circulated between January 20<sup>th</sup> and March 14<sup>th</sup> of 2003; four comments had been received (PG&E, Santa Clara Transit Authority, Santa Clara Water Department, and Roads and Airports Department); and all of the comments added minor factual data to the report.

Mr. King informed the Council/Agency that special legal counsel, Dave Beatty, had been used for the project due to the complexity of the law.

David Beatty, McDonough Holland & Allen, said the plan amendment process was lengthy and complicated, similar to a plan adoption process; it started with the preliminary plan and owner participation rule; there was a separate procedure for compliance with the California Environmental Quality Act (CEQA), which resulted in the described EIR; and a procedure resulting in the actual amendment to the Redevelopment Plan itself currently before the Council/Agency; and notices of the hearing had been sent to all the property owners, the business owners, the residents, and the community organizations.

Mr. King summarized that the Amendment and Restated Plan were included as an exhibit before the Council; the rules for owner participation were also included; the report to the Council was included as an exhibit; there was also a supplemental report included as an exhibit, which documented that the Planning Commission found that the ordinance (the amendment) was compliant with the General Plan and recommended adoption of the ordinance; and the EIR required action from both the Agency and the City Council.

Mayor Esteves asked the City Clerk to read into the record the names and addresses of persons or organizations that had submitted written statements concerning the proposed Eighth Amendment.

City Clerk Gail Blalock stated two letters had been received; one from Pacific Gas & Electric, 111 Almaden Boulevard, San Jose; and a letter from Garbe's Towing, 130 Windsor Street, Milpitas.

Mayor Esteves stated the proposed Eighth Amendment report to the Council, the final Environmental Impact Report, the Rules Governing Preferences to Owners and Occupants, and the affidavits of the hearing notice would be made a part of the record along with the staff presentation and any other documents received.

Mayor Esteves opened the public hearing and invited comments.

Richard Ruth, Milpitas, said the redevelopment system puts high stress and demand on a blight analysis; commented on a court case involving a redevelopment project in the City of Diamond Bar that was rejected because they neglected to do an adequate job on the blight analysis; and thought for the amount of money that this City was committing to, \$2.4 billion, it should get an accurate appraisal of the areas being looking at to take into this project area.

Frank Fiscalini, San Jose, representing the Sweat family, owners of the property at 100 S. Main Street, stated the Sweat family has operated their business for 24 years, Phil Sweat was in the audience, he fully intends to operate for another 24 years and the business has potential to remain in the family for a long period of time. Mr. Fiscalini said chills go through one's spine when a notice indicates that non-residential property owners face eminent domain possibilities, this conjures up many fears and often times it can have negative consequences on property owners and their business. Mr. Fiscalini urged extreme caution, as the Council moves forward, in the exercise of the use of eminent domain, particularly in the early stages. Mr. Fiscalini said they would also like to receive a copy of the city's relocation plan; he was aware that the Midtown Plan provides some protection for businesses; and commended the Council on the development of that plan and thought it was very well done.

Bob Cracolice, property owner, said his concern was the same as Mr. Fiscalini; he thought what was being done was great and supported it thoroughly until he read about eminent domain, which put doubts in his mind for his property that will be put in the redevelopment area. Mr. Cracolice said he would appreciate some assurance or some heads up on what the City's plans were for eminent domain.

John Bettencourt, representing his mother and family, owners of 134-158 S. Main, Central Plaza, said eminent domain had caused some panic with them and with tenants; tenants who received the letter had expressed some real concern and that could present problems for them as leases come up; it could have some real definite negative impact financially on the family; and he wanted to express his concerns and ask the question "what's up" and hoped to get some answers.

Assistant City Manager King explained the purpose of the public hearing was to receive comments and testimony from the public and staff would be happy to respond to comments and questions from the Agency through the Chair if there was desire to respond to issues raised concerning eminent domain.

Vice Mayor Dixon recalled that in 1991, her first assignment on the Planning Commission was to work out an agreement with the property owners and business owners within the Main Street/Abel Street area; once elected to the Council, the ground work was started for the MidTown Plan with the assistance of many staff members; it took approximately four years; the issue of eminent domain was not one of her priorities; her goal was to help assist and facilitate to see if something could be done to create a downtown for Milpitas; with this amendment, it would move forward with the necessary funding; speaking for herself, she wasn't looking at eminent domain but asked, through the Mayor, if the issue of eminent domain was just a part or a form of protection of the unknown for the future?

Mr. King responded, through the Chair, the City was required to provide the information on eminent domain to the residents that we provide the notice to; this was a legal mandate but was not intended to cause concern or alarm, but was a requirement of the state law; in the previous plan amendments, there was that ability; however, the Agency chose not to exercise that to the best of his research; there presumably would be no intention to exercise that in the future; however, this plan does provide the ability within the context of the Redevelopment Plan to exercise that authority for a 12 year period.



Councilmember Livengood said he wanted to speak to a couple of points: The Redevelopment Agency itself, and as staff indicated, was first adopted by the City fathers back in 1958, but they didn't do anything with it, they simply adopted a Redevelopment Agency; in 1976, the City Council proceeded with – actually creating an Agency and collecting the increment dollars; that was part of an economic development program that was adopted by the City in '76 because there wasn't much of a tax base other than Ford Motor; it was an attempt to kick start the development of the City; since that time, there have been many amendments but he couldn't remember any time when the power of eminent domain was used. Councilmember Livengood further stated the intention has never been for the Milpitas Redevelopment Agency to become a monster that would go out and grab up properties owned by our citizens or our business owners, that had never happened, and he didn't believe it will happen in this case, and it certainly wasn't his intent to do that. Councilmember Livengood commented on the use or redevelopment to secure developments and improvements that help the business community, such as the Town Center, and now working on this amendment for the MidTown Plan; there had been attempts in the past to improve Main Street and none of them really worked but he thought this would work, given the right amount of time and the right amount of investment. Councilmember Livengood said the only way he could answer Mr. Bettencourt and the other fears about eminent domain tonight was to say he had no interest in it, it was not the way we're going to build our downtown area up; in fact, we need the small business people to work with us; he understood the consternation that anybody who owns property would have when eminent domain is always a possibility but it simply hasn't been used in the past and the best predictor of the future is looking at what's happened in the past, and this Redevelopment Agency has simply not seen fit to use eminent domain, so he really didn't think it was going to be an issue.

Councilmember Polanski commented that it was an extensive plan; the document before the Council was quite large; she wanted to say to those who spoke and the business owners in the MidTown area that she agreed with her colleagues and did not believe in eminent domain; that was definitely a last resort we need to – as was said –work with the business owners in the MidTown area to revitalize that area; they've been a cornerstone for many years, and she saw it as a partnership working with them to continue having them here and be a part of the community and didn't see it ever being used.

Councilmember Gomez stated he had worked for a couple of cities in his career; seen some of the things eminent domain could do if it was used incorrectly; and wanted to assure everyone that he had no intention of using eminent domain loosely.

Mayor Esteves stated he had always looked at redevelopment of blighted areas as a tool, it was a great financing tool for the City, and one good example was the City Hall.

City Attorney Mattas stated with regard to the power of eminent domain, as the Council is aware, and the public may not be, the exercise of eminent domain does require four affirmative votes on the part of the Council if it's ever exercised, and there is, as Mr. King indicated earlier, a public hearing process that's associated with that as well; with that, Mr. Mayor and members of the Council, staff would recommend that the hearing be closed, with no further action being taken this evening, and the joint meeting be continued to June 3, 2003.

MOTION to close the public hearing and continue the joint meeting of the City Council and Redevelopment Agency to June 3, 2003.

M/S: Livengood, Dixon.

Mayor Esteves asked for clarification if the continuation to June 3<sup>rd</sup> should be made after the whole agency agenda was done because there still was one more item.

City Attorney Mattas suggested amending the motion slightly. The maker and second to the motion agreed.

VOTE ON MOTION to close the public hearing and continue the joint meeting on the Eighth Amendment to the Redevelopment Plan to June 3, 2003: Ayes: 5

City Attorney Mattas said he wanted to be sure that the record was absolutely clear - the Council's action was to close the public hearing and to continue the item to June 3<sup>rd</sup> for further actions. Mayor Esteves thanked the City Attorney for the clarification.

**RA6.  
CIVIC CENTER PROJECT  
PROGRESS REPORT**

Redevelopment Projects Manager Greg Armendariz reported there were no action items before the Council/Agency and proceeded to review the City Hall Budget, which showed a project contingency remaining amount of \$165,608. Mr. Armendariz also reviewed the status of the third floor improvements and budget and reported staff was continuing to complete detailed plans for the fourth floor improvements.

MOTION to note receipt and file.

M/S: Polanski, Gomez.

Ayes: 5

**\*RA7.  
RESALE AFFORDABLE  
HOUSING UNIT**

Authorized staff to resale the below market rate affordable housing unit to Mr. Trung Huynh and execute the appropriate legal documents to maintain the long-term affordability.

**\*RA8.  
TERRACE GARDENS  
FINANCIAL REPORT**

Accepted and filed the Terrace Gardens Annual Financial Report for 2002.

**RA9.  
ADJOURNMENT**

There being no further Redevelopment Agency business, Mayor Esteves asked for a motion to continue the joint meeting to June 3, 2003.

MOTION to continue the joint meeting to June 3, 2003.

MS: Livengood, Dixon.

Ayes: 5

The Redevelopment Agency meeting was adjourned at 9:04 p.m.

The City Council meeting continued.

**REPORTS OF OFFICERS & BOARDS**

**2.  
Ordinance No. 260  
Flag Ceremonies  
(Introduce)**

Councilmember Polanski placed this item on the agenda and reviewed some history of flag ceremonies in Milpitas commenting that in 1991 there was some controversy regarding flag ceremonies; the Council at that time asked the Community Advisory Commission to make a recommendation on a flag policy; the CAC unanimously recommended either the Higuera Adobe or Cardoza Park as sites for ceremonial flag raisings; the recommendation from the CAC was adopted by the Council for ceremonial flag raisings at the historic Higuera Adobe site; until 1999, the flag policy served the City well; every year since 1999 there has been confusion and controversy surrounding ceremonial flag raising; many residents feel the flag issue has been resolved, but a new issue always emerges; and she felt it was now time to codify a policy that meets the needs of a majority of the residents. Councilmember Polanski said we are one nation represented by one flag; she believed this ordinance codified that position while recognizing and embracing our multiple cultures; and asked that we embrace our nation's flag, respect our cultures, and provide clear direction to our community and staff on our respect for our flag. Councilmember Polanski further stated she believed the draft ordinance addressed the concerns of many in the community and read three main points: (1) it would codify the current City flag policy for flag ceremonies at the Higuera Adobe, including the application, public hearing, and City Council approval requirements; (2) requires that the 10 permanent flag poles located at City Hall be used for only those purposes specified (display of the flags of the United States of America, State of California, and City of Milpitas on the flag poles in front of City Hall and at the Veteran's Memorial site, and display of four flags of

the United States on the four permanent flag poles adjacent to the pond at City Hall); and (3) upon request of an individual or organization, the ordinance would allow flags of nations in existence after 1954, which is the Milpitas incorporation date, to be displayed in specified locations at the Civic Center complex and Community Center with such displays being approved by the City Council at a public hearing held prior to the display event. Councilmember Polanski proposed one addition to the policy before the Council that the MIA/POW flag that is flown in the rotunda of the White House and on various specified holidays be added to Section I-600-2.1.

Vice Mayor Dixon said she thought Councilmember Polanski summed up her feelings over the past several years. Vice Mayor Dixon commented that May 2003 marked her 30<sup>th</sup> year as a resident of Milpitas and over those 30 years she had been involved in the community in various ways but there was one time during those 30 years that she felt a personal public shame and private emotional pain and that happened in 1999 when the communist flag from the People's Republic of China was flown larger than our nation's flag for two days; in January 2000 she requested the Council codify the policy but it failed due to a lack of a second to her motion. Vice Mayor Dixon further commented that as recently as last year, she and Mr. Esteves tried to have the four flag poles removed in the rear and that also failed. Vice Mayor Dixon said she didn't want this to be contentious any more, and she was very frustrated with the confusing policy as previously stated by Councilmember Polanski. Vice Mayor Dixon further stated what started in 1991 with the Vietnamese community, a compromise was struck in 1999 to give them a permanent location for ceremonial flag raisings, and the policy at that time worked quite well, up until September 1999, when the public, at least those who talked to her, was confused. Vice Mayor Dixon further stated she received comments after the Council's last action regarding recognition of the Vietnamese-American community that people were confused and so what was before the Council tonight was a compromise, we're not saying we're not embracing all the different cultures in our community because that's what makes Milpitas and, by allowing the ground ceremonies, we still embrace all those that have come to this City for whatever reason from their homeland. Vice Mayor Dixon said the only issue was, as Councilmember Polanski said, to maintain almost a separation of one nation, one community, and one flag, and it means so much to a lot of people to see those flags on our flag poles.

Councilmember Livengood said he had long held the position that the utilization of those four flag poles installed back by the pond for ceremonial flag raisings was a legitimate exercise, it creates a lot of pride, and he still had the same opinion. Councilmember Livengood inquired if this ordinance is adopted, would it prevent or override what the Council did at the last Council meeting where it authorized the flying of the flag of the Vietnamese republic – would that become illegal to do on the four poles behind City Hall. City Attorney Mattas responded the four poles would only be authorized to fly the flag of the United States; the ordinance as proposed did allow for the display of flags of other nations at specified locations within the City Hall compound. Councilmember Livengood commented that if this is adopted, we should go back to the Vietnamese community and let them know this ordinance would prevent us from doing what the resolution last time said that we were able to do or could do. Councilmember Livengood further inquired if we had a visit from our sister city in the Philippines, would it be illegal to fly the Philippine flag on one of those four flag poles. Mr. Mattas responded on those four poles, it would not be permitted. Councilmember Livengood asked if that would hold true for the flag of a city. Mr. Mattas responded it would be true as to any flag other than the United States flag.

Councilmember Livengood said that was enough for him to know that he couldn't support the ordinance because he felt those types of flag ceremonies are done in cities, counties, and state houses across America; he had said his piece on this many times; he had heard comments from citizens who were very angry and those who thanked him and he recognized that you can't make everybody happy; in this particular case, he thought preventing ceremonial flag raisings for people visiting from our sister cities goes too far and was unnecessary. Councilmember Livengood asked if a request to display required a public hearing. City Attorney Mattas responded Councilmember Livengood was correct at the Adobe and the

ground level displays. Councilmember Livengood said he didn't understand why the members of the Fil-Am Association would need to have a public hearing to bring their flag in with the American flag at their annual festival, it didn't seem necessary, he thought it went too far, and he had to register his no vote.

Councilmember Gomez said he helped draft the Vietnamese flag resolution passed two weeks ago and he included in the resolution that flag would be allowed to fly behind City Hall on those four poles and he was disappointed that the Council was today considering an ordinance that would basically throw the resolution out the window. Councilmember Gomez further stated as far as he was concerned, those four poles right behind City Hall was the compromise with the community, he had looked over the minutes, many community members said they didn't want foreign flags flying in front of City Hall, find another location, and that was the location selected (the pond site), so he would not be supporting the ordinance.

Councilmember Polanski said she didn't believe the proposed ordinance in any way negated the resolution the Council voted on; the resolution was to recognize a yellow flag with the three red stripes as a symbol of the Vietnamese community within the City of Milpitas and it also supported a resolution at the State level; it in no way negates their ability to have a ground ceremony by the pond area; one of the reasons for bringing this forward was the flag policy had been very ambiguous; this ordinance states that the City would recognize flags of countries that have existed since 1954 and South Vietnam was a country at that time; she picked that date because it was the City's incorporation date. Councilmember Polanski said the ordinance honors those from the various cultures that believe that the United States of America is a wonderful country, that it is one nation, one flag, but it still embraces other cultures by allowing them to have ground ceremonies at the Civic Center complex and raise flags at the Adobe; with respect to the points Councilmember Livengood brought up about having the need for a public hearing, she was open for amendments. Councilmember Polanski said she believed this ordinance would finally respect our flag as well as respect the flags of other nations and groups who want to honor their homeland.

Councilmember Livengood commented on the Global Village events held in the past where 80 or 90 different flags were on display at Cardoza Park and inquired if this ordinance would prohibit that because it was not specifically listed in the ground level ceremony section of the ordinance. City Attorney Mattas responded it would not; the exception applied to the display at the Civic Center complex or the Community Center. Councilmember Livengood asked if the location of the Global Village would have to be moved to either the Civic Center or the Adobe – he was trying to figure out whether that would be allowed under this ordinance or would the location actually have to be moved. City Attorney Mattas said he would like a few minutes to look through the ordinance.

Councilmember Gomez asked if something happened to somebody serving in our military and their family requested the flying of their squadron flag at the Civic Center, it would not be a flag of a nation, and would that be allowed to fly on the four poles behind City Hall. Mr. Mattas responded no. Councilmember Gomez asked if they would be allowed to have a ground display as the ordinance was currently written. Mr. Mattas responded no, the ordinance was specific as to the types of flags allowed for ground displays. Councilmember Gomez inquired about the flag for the Month of the Young Child asking if under the ordinance as written that would be an illegal act. Mr. Mattas responded it would not be legal under the ordinance as written. Mr. Mattas said if someone walked across the City Hall complex carrying a flag, that would not be illegal; but, if they wanted to do a ceremonial display, it did not fall within the category of flags authorized at ceremonial displays.

Councilmember Polanski asked whether the Children's memorial flag, a flag of a squadron, or a flag of a community group would be allowed under the current flag policy. Mr. Mattas said they would not be allowed to be flown on the ceremonial flag poles.

Mayor Esteves said he thought it was an issue of balancing what we can do here, especially the City Hall site, whether we just allow countries or open it up to everybody else, which we

may not want to do; the four flag poles in the back of City Hall has been a burning issue for many residents. Mayor Esteves further stated he thought it was critical that the community feels comfortable and proud of the flags that are raised in this prominent place; last year when City Hall was under construction, he was against the installation of the four flag poles because of this issue; as an example, during that time, the Fil-Am community was able to do a very honorable ground ceremony in the Community Center, they will be doing it again this year, and he thought it was a very honorable thing to do. With respect to the Vietnamese resolution, of which he was an author, it said it was pursuant to the City's flag policy and the good part was it is applicable to everybody so nobody can say we are pointing a finger at a specific group. Mayor Esteves said he would like to see a couple of amendments; he felt ground ceremonies should also be permitted in the Council Chambers, the Filipino Fiesta is coming June 7, it was already on the program to have a ground ceremony, and if this was adopted today, they would not have 45 days to apply so he would like to have a one-time request that they not be covered by the 45 day requirement but next year everybody should conform to the proposed policy.

City Attorney Mattas said that in response to questions raised earlier, the ordinance, if introduced tonight would not take effect for 30 days after adoption so it would not apply to the Fil-Am Festival scheduled in June; the ordinance as written, specifically applied to ceremonial flag policies at the Civic Center and the Higuera Adobe; in response to Councilmember Livengood's question regarding the Global Village, - the Global Village ceremony was held at a different City park, it did involve the display flags of many nations, this ordinance would not prohibit that; it would not ban the display of flags at other City facilities.

Councilmember Gomez inquired if, according to the ordinance as written, it would be legal or illegal for the flag of Iraq to be flown at the Civic Center. City Attorney Mattas responded it would be legal. Councilmember Gomez asked for confirmation that the flag of Iraq would be legal but the flag symbolizing our military or a flag symbolizing a fight against child abuse would be illegal. Mr. Mattas said on the ceremonial flag poles. Councilmember Gomez asked even the ground display? Mr. Mattas said that was correct, as part of a ground display.

Councilmember Dixon said right now with the current policy the flag of Iraq, Iran, Afghanistan, Pakistan, Vietnam, Korea could fly as per the current policy; this ordinance would step it down where we are not prohibiting those that would encourage that type of flag ceremony to be performed but it would be on the ground in a stand not to exceed 10 ft. in height, but she agreed she would be quite upset right now to see the flag of Iraq fly anywhere in this community

Councilmember Polanski asked if the current policy would allow the flag of Iraq to be raised on the ceremonial flag poles. Mr. Mattas responded yes, a flag of another nation could fly on the poles. Councilmember Polanski said that with the ordinance, they would still be able to do that but only with a ground ceremony and it could not be more than 10 ft. Councilmember Polanski said she was ready to propose a motion.

Mayor Esteves said as he understood it, all the other flags, like organization flags or movement flags (like the Child Abuse flag) would be allowed to do flag ceremonies anywhere in the City except City Hall. Mr. Mattas responded other than the ceremonial poles or the Higuera Adobe.

Councilmember Polanski asked the City Attorney for guidance before making the motion to waive the reading. City Attorney Mattas said if the Council desired to include the changes discussed, he would recommend that the maker of the motion include the language "National POW/MIA flag recognized by U.S. Public Law 101-355" on the list of permissible flags, pointing out that it would add a category beyond those listed which could broaden the category for those flag poles. Councilmember Polanski inquired if that flag (POW/MIA) would be allowed under the current policy. Mr. Mattas responded no.

City Attorney Mattas reviewed the modifications to the proposed ordinance adding “the National POW/MIA flag recognized by U.S. Public Law 101-355” after “City of Milpitas” in the list of permissible flags in section 2.1; changing the year 1970 to “1954” in section 2.3; and adding “(4) Council Chambers” to the list of locations in section 2.3.

City Attorney Mattas read the title of Ordinance No. 260 adding Chapter 600 to Title I of the Milpitas Municipal Code entitled “Display of Flags” with the modifications mentioned above (by the City Attorney).

MOTION to waive the reading beyond the title.

M/S: Polanski, Livengood.

Ayes: 5

MOTION to introduce Ordinance No. 260.

M/S: Polanski, Dixon.

Mayor Esteves said he was very supportive of this new policy because it was a great compromise. Mayor Esteves commented that the current policy would allow the flag of Iraq to be flown so the compromise for ground ceremonies was good; being from the Philippines, he would like the flag of the Philippines raised but being an American, he would not want the flag of Iraq raised so as a compromise, he would rather have all flags be on the ground level because he believed first and foremost we are Americans.

VOTE ON MOTION:

Ayes: 3

Noes: 2 (Gomez, Livengood)

Councilmember Livengood inquired when the ordinance would be heard again. City Attorney Mattas responded June 3, 2003.

3.  
Public Art Location  
Murphy Park

Councilmember Polanski placed this item on the agenda and stated it came to her attention that the placement of the art work in Murphy Park was not conducive to everyone around the park; the original location obstructed the view of the hills for some residents who live on Platt Avenue; and she wanted to present a very short PowerPoint presentation and also have the Alliance for the Arts and the artist explain the art work. Councilmember Polanski presented background on the original location for the art work, noting that the Alliance passed out 385 flyers to have residents in the area to come to meetings; unfortunately, only seven or eight of the residents attended; in reviewing the area, an area she felt might be appropriate was right off the picnic area near the parking lot off Yellowstone that would be least obtrusive to the neighbors and would allow it to be seen from Yellowstone, if driving by, and it could be seen more clearly from the picnic area and the parking lot, and it would not pit neighbor against neighbor. Councilmember Polanski said she thought the art in the park program was wonderful but believed guidelines were needed by the Council when accepting art for a public park.

Harriet McGuire, Milpitas, said she lives three doors from the backstop at Crater Lake and was involved with this project since the beginning and was delighted with the art itself. Mrs. McGuire expressed her disappointment that the Council brought this back to relocate the art work, people who use the park will not see it, Yellowstone is a very busy street and people will not stop to look at it, it would only be seen by those in the parking lot, that was why they wanted it moved to the middle of the park, she was upset with the Council for bringing it up again because of complaints from two residents who were not involved in this whatsoever, and 12 people made a decision that they liked the work and wanted this in the original location.

Councilmember Polanski commented there was a majority that picked the art work and location but when the Council approved it, they approved it at Murphy Park. Councilmember Polanski said she appreciated Mrs. McGuire’s comments but she didn’t believe it was just

based on two neighbor' complaints, and believed it was something the Council should review and look at, especially when it obstructs a view from a home.

Jim Rabe, Milpitas, said he was at both of the meetings, they went through the process, the Council had this and they should have gone down and looked at it, it was not his fault nor the fault of any of the people who were there; they should have done their job; he thought it should go in where the original people suggested, and thought the Council should be proactive and not reactive.

Julie Cherry, representing the Milpitas Alliance for the Arts, thanked everyone for coming back together and addressing all of the neighbors' concerns and commented when she originally looked at the site, she didn't think about the fact this would obstruct a hillside view and while it doesn't completely block the total view, it definitely comes into the view and changes what they see out their window. Ms. Cherry thanked the artist, who came and brought one top of one of the legends, and described the art work noting that a brass plaque at the bottom of each piece would provide a description of the symbols on the top.

Vice Mayor Dixon commented that this was only the second attempt at art in the park and it was always hard to get off the ground with any new project; the first attempt was at Augustine Park and was incorporated into a major remodel of the park so there wasn't an opportunity to have miscommunication; having gone through this process, she saw the notification process as needing guidelines and suggested the City send out the notifications so that people don't look at it as an advertisement and might pay more attention to it if it was from the City. Vice Mayor Dixon noted that a few months ago she asked for some information on liability, and she still wanted that information to come forward. With respect to the location, Vice Mayor Dixon said she didn't want to pit neighbor against neighbor, she was very uncomfortable with just a handful of people making the determination, she recommended in the future there be some type of process, that a map of the location be brought in, and she thought it was an obligation of the Council to go out and walk the property and commented that she thought the Council had requested poles be put up to mark the location. Senior Engineer Mark Rogge said if the Council selected a location tonight, staff would put up story poles.

Councilmember Livengood said he didn't have a problem with changing the procedure if the Council wants to take over the notification process; however, he thought that should go from this point forward. Councilmember Gomez said he was okay with Councilmember Polanski's and Vice Mayor Dixon's proposals and thought it was a good location that will work out fine for the community. Mayor Esteves said he also agreed with the prior comments but thought there should be some deadlines. Mayor Esteves further stated he wanted to give credit to the Milpitas Alliance because he saw them walking the neighborhoods.

MOTION to place the art in Murphy Park at the location by the picnic area and the parking lot and direct staff to work with the Milpitas Alliance and the Arts Commission to come up with guidelines for future acceptance of art for City parks.

M/S: Polanski, Dixon.

Ayes: 4

Noes: 1 (Livengood)

Councilmember Livengood said his no vote was not related to future projects; he felt for this project the process had already matured to the point that the Council should stay with the original location. Vice Mayor Dixon commented that when the Council accepted the art, from her perspective it did not adopt a location. Councilmember Polanski thanked the artist for bringing down the art work, and said she thought it was very well done.

RECESS

Mayor Esteves recessed the City Council meeting at 10:10 p.m. The City Council meeting reconvened at 10:18 p.m.

4.  
Council Items

Councilmember Polanski placed this item on the agenda and commented that after the last meeting when there was a matter involving labor negotiations placed on the agenda and not

Regarding Labor Negotiations

on the Closed Session agenda, she was informed that she could request a Council policy that would direct staff to place on the Closed Session agenda all items related to labor negotiations that are placed by a Councilmember or the Mayor on the Council open public agenda. Councilmember Polanski said she believed that this policy would be helpful for staff and would ease some of the process areas that some of the Council has problems with.

Councilmember Livengood said he didn't particularly care whether the Council wanted to put any item he put on the agenda on the Closed Session agenda as long as it was a legally defensible position that the City Attorney says can be on the Closed Session because he didn't want to make a blanket statement that everything goes on the Closed Session because that was not what the Brown Act said; he didn't have a problem with this; and, from his perspective, it wasn't going to change the ability of a Councilmember to put anything on the agenda they please.

Councilmember Gomez asked if this policy would be more restrictive than the Brown Act. City Attorney Mattas responded it was not more restrictive and the Council can provide direction that items involving labor negotiations be placed on the Closed Session.

MOTION to approve a Council policy directing staff to place on the Closed Session agenda all items relating to Labor Negotiations placed by a Councilmember on the Council's open public agenda.

M/S: Livengood, Dixon.

Ayes: 5

**ORDINANCES**

8.  
Ordinance No. 243.2  
Campaign Contributions  
(Introduce)

City Attorney Mattas reported that at the request of Mayor Esteves, the City Attorney's Office reviewed the City's campaign contribution ordinance in the context of existing state and federal case law, statutes, and regulations, and before the Council were proposed amendments to that ordinance. Mr. Mattas explained the amendments would prohibit candidates from transferring funds into a candidate or elective officer's campaign committee from any other committee controlled by a candidate where the transfer of funds would result in a transfer from one candidate to another; in addition, it deleted the section on "Excess Funds" which was pre-empted by California Government Code 89519. Mr. Mattas pointed out that the \$350 contribution limit and the requirement to publish the list of donors of \$100 or more remained.

City Attorney Mattas read the title of Ordinance No. 243.2 amending Chapter 210 of Title I of the Milpitas Municipal Code related to Disbursement of Excess Campaign Funds.

MOTION to waive the reading beyond the title.

M/S: Livengood, Gomez.

Ayes: 5

MOTION to introduce Ordinance No. 243.2.

M/S: Livengood, Dixon.

Ayes: 5

9.  
Ordinance No. 38.761  
Zoning Ordinance  
(Adopt)

Planning Manager Tambri Heyden reported this ordinance was introduced following a public hearing at the May 6, 2003, Council meeting and included amendments to the zoning map and zoning code; no comments were made at the public hearing; however, today two comments were received regarding the density bonus provisions on pages 12 and 14; after consulting with the City Attorney's Office, staff was recommending removing the word "affordable" in parentheses in section 54.20-7 on page 14. Ms. Heyden further reported that the second comment proposed that the word "may" be changed to "shall" in section 54.20-2 on page 12; however, after consulting with the City Attorney's Office, staff determined that no change to this section was needed because further in the ordinance the options were clearly laid out and the staff's determination complied with state law.



City Attorney Mattas stated for the record that the change to section 54.20-7 was not a substantive change and so the ordinance did not need to be re-introduced.

Heide Wolf-Reid said she didn't realize this was in the ordinance until yesterday; she did a quick review and talked to the City Attorney about the use of the word "may"; he pointed out to her that further on there was a "shall" which made it clearer, since the whole intent of the law was that it was a requirement and no longer an option; she wasn't an attorney but would check with her attorney and if there were any conflicts, she would let the City know.

City Attorney Mattas read the title of Ordinance No. 38.761 amending various sections of Chapter 10, Title XI of the Milpitas Municipal Code.

MOTION to waive the reading beyond the title.

M/S: Gomez, Polanski.

Ayes: 5

MOTION to adopt Ordinance No. 38.761.

M/S: Polanski, Livengood.

Ayes: 5

#### **ADJOURNMENT**

There being no further Council business, Mayor Esteves adjourned the City Council meeting at 10:35 p.m.

Gail Blalock, CMC  
City Clerk

*The foregoing minutes were approved by the City Council as submitted on June 3, 2003.*

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*Gail Blalock, CMC,  
City Clerk*

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*Date*